

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF MISSISSIPPI**

IN RE:

CHAPTER 7

HARRIS CLAIBORNE FRAZIER

CASE NO. 08-03051-EE

**TRAVELERS CASUALTY AND SURETY
COMPANY OF AMERICA**

PLAINTIFF

VS.

ADVERSARY NO. 09-00087-EE

HARRIS CLAIBORNE FRAZIER

DEFENDANT

MOTION FOR DEFAULT JUDGMENT

Plaintiff Travelers Casualty and Surety Company of America (“Travelers”) hereby moves this Court for a default judgment against Harris Claiborne Frazier (“Mr. Frazier”), and in support of this motion would show the following:

1. On April 27, 2010, the Court entered an Order Permitting Withdrawal of Defendant’s Counsel and, if Mr. Frazier elected to proceed pro se, provided that all filings should be served on Mr. Frazier at the following address:

Harris Claiborne Frazier
770 Harbor Blvd
Destin, FL 32541.

See Dt. Ent. No. 43.

2. On November 17, 2010, this Court entered its “Notice Scheduling Pretrial Conference” (the “Notice”) in the above referenced adversary proceeding ordering all parties to appear for a pretrial conference on Tuesday, January 4, 2011, at 10:00 A.M., at the United States Bankruptcy Court in Jackson. *See* Dt. Ent No. 47.

3. The Notice further states: “Should an attorney for a party or an unrepresented party fail to appear or to comply with the directions set out herein . . . a Judgment or other appropriate order may be entered and sanctions imposed.” *See id.*

4. The Notice was duly served on Mr. Frazier at his address at the time of the filing of his bankruptcy and the Destin, Florida address in the Order above. *Id.*

5. Rule 16(f) of the Federal Rules of Civil Procedure, incorporated by Rule 7016 of the Federal Rules of Bankruptcy Procedure, provides that “the court may issue any just orders, including those authorized by Rule 37(b)(2)(A)(ii)-(vii) . . . if a party . . . fails to appear at a scheduling or other pretrial conference . . .” *See Fed. R. Civ. P. 16 & Bankruptcy Rule 7016.* Rule 37(b)(2)(A)(vi) provides the Court the authority to “render[] a default judgment against the disobedient party.” *See Fed. R. Civ. P. 37 & Bankruptcy Rule 7037.*

6. The Notice was duly served on all parties. *See Dt. Ent. No. 47.*

7. Mr. Frazier, however, failed or refused to appear at the pretrial conference.

3. Accordingly, a default judgment should be entered against Mr. Frazier pursuant to Rule 7016 of the Federal Rules of Bankruptcy Procedure and this Court’s Notice, providing Travelers with a non-dischargeable judgment against Mr. Frazier in the amount of \$6,405,585.21.

WHEREFORE, PREMISES CONSIDERED, Travelers respectfully requests that this Court enter the Default Judgment attached hereto as Exhibit “A” against Mr. Frazier and for the Court to grant any additional relief deemed equitable and just under the circumstances.

Respectfully submitted,

TRAVELERS CASUALTY AND SURETY
COMPANY OF AMERICA

By: /s/ Jack Crawford
John A. Crawford, Jr. (MB# 10346)
Paul M. Ellis (MB # 102259)

ITS ATTORNEYS

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CERTIFICATE OF SERVICE

I, John A. Crawford, Jr., one of the attorneys for Travelers, do hereby certify that I have served the attached motion via the ECF system and via U.S. Mail, postage prepaid on the following:

Harris Claiborne Frazier
770 Harbor Blvd.
Destin, FL 32541

Derek Henderson
111 E. Capitol Street, Suite 455
Jackson, MS 39201-2403

This the 10th day of January, 2011.

/s/ Jack Crawford